

Negotiation Barometry: A Dynamic Measure of Conflict Management Style

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Learning to negotiate well requires both interpersonal and intrapersonal skills. Meaningful self-reflection can uncover substantive interests as well as process motivations. But self-reflection does not come easily to all students of negotiation, so over the years teachers and trainers have adopted tools and tests that facilitate students' exploration of their own styles and orientations. The Thomas Kilmann Conflict Mode Instrument (TKI) is one such tool, and it has been extremely popular with students and teachers alike. Many negotiation professors use the TKI to help students reflect on their "default" or reflexive approach to conflict.

Yet the TKI has its flaws. One of the weaknesses of the TKI is that it seems to assume a "static self,"¹ one that can be captured in freeze-frame without reflecting the likelihood that the emotional tenor of a conflict—and the presentation of self within it—can change. This paper will suggest adjustments to the current TKI in order to capture more accurately the way styles can change in the course of a negotiation. A new tool, the Dynamic Negotiating Approach Diagnostic (DYNAD), asks participants to assess themselves both at the start of a conflict and then again after the conflict becomes more difficult. Many negotiators find that they shift—they change their styles in one way or another—to adjust to the rising temperature of the conflict. Awareness of this negotiation barometer can provide crucial lessons to negotiation students.

This paper will first focus on the TKI and the theories that were used in its development. Second, it will discuss how the TKI is used in negotiation classes. Not only does the TKI raise students' awareness of their own reflexive responses to conflict, it can also help them understand behaviors they observe in their negotiating counterparts. By raising awareness in this way, the TKI can both empower students who are likely to be overly accommodating and help to temper over-claiming by more aggressive

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¹ Peter Gabrielli, a Yale law student, coined this phrase during a debrief of the TKI in a Negotiation class Brown taught in the Fall of 2012.

students. Third, it will discuss strengths and weaknesses of the TKI, as well as other diagnostic instruments that type people by their personality, approach to conflict, or other characteristics potentially relevant to their work as negotiators.

Section V discusses the DYNAD instrument and shows the ways it differs from the TKI. Rather than presenting a pair of statements between which the participant must choose, this instrument asks participants to rate themselves with respect to each type of response to conflict. In addition, this instrument specifically asks participants to reflect on how they handle conflict at the beginning and then during a more heated phase of a conflict.

Finally, the paper examines how debriefing the DYNAD is similar to, and yet more nuanced than, the traditional TKI debrief. Participants are still categorized into the traditional five styles of the TKI and can be similarly graphed along axes of concern for “self” versus “other.” As with the TKI, respondents can be assigned to discuss their results with other participants who responded to the survey in a way similar to theirs. Each group can discuss advantages and disadvantages of their type, the best time to use that approach, and even be encouraged to “advise” others about how best to work with someone of their type. A key difference in debriefing is the discussion about shifting styles to reflect the dynamics of the negotiation, and how styles should and could change during the negotiation. This distinction allows students to think about conflict management type—their own as well as others’—in ways that may better prepare them for the calms and storms of actual conflict.

I. THE APPEAL OF TEACHING “NEGOTIATING STYLES”

Almost all teachers of negotiation incorporate discussion of the choices that negotiators make about how to approach the other side. Once negotiators have determined their goals, analyzed different approaches to negotiation (distributive v. integrative), and assessed information about the other side and their clients, negotiators can then turn to more stylistic choices. Even when teachers and trainers know that these stylistic choices are more nuanced than easy grids, they need the labels, attached to conflict, to provide clarity when teaching.

As Schneider has argued,² labeling different approaches to negotiation “is helpful in trying to help students understand the general differences in how negotiators might think about, and therefore how negotiators might then

² Andrea Kupfer Schneider, *Teaching a New Negotiation Skills Paradigm*, 39 WASH. U. J.L. & POL’Y 13, 15 (2012).

behave in, negotiations.” Commentators on negotiation generally refer to distributive or integrative negotiations. Distributive negotiation describes negotiations which are generally limited to one item; the assumption is that more for you is less for me.³ Integrative negotiation generally refers to an opportunity to add or subtract elements to and from the negotiation.⁴ The goal is to find a way to have a more mutually beneficial outcome.⁵ At the outset of learning about negotiation, this distributive/integrative distinction can sensitize students to some of the assumptions they might bring to their study of negotiation—especially assumptions that see negotiation as a kind of war or game that produces a clear winner and a clear loser.⁶ We believe that getting students to question that assumption requires teachers to present them with an alternative—the integrative approach—so that they can see that not all negotiations create a winner and a loser.

Teachers also use labels to describe styles or strategies in the negotiation.⁷ These labels help to simplify complex behavioral patterns, demonstrate contrasts, and show students that they have choices. These style labels are useful to enable students to identify certain patterns of behavior—their own and their counterparts’—and to raise the possibility that other styles or strategies might be as useful as, or even more useful than, their default or comfort zone.⁸ And it is this possibility—the use of other styles—that teachers can use the TKI and DYNAD to raise explicitly in class.

³ THOMAS C. SCHELLING, *THE STRATEGY OF CONFLICT* 21 (1960); HOWARD RAIFFA, *NEGOTIATION ANALYSIS: THE SCIENCE AND ART OF COLLABORATIVE DECISION MAKING* 97–98 (2002).

⁴ Mary Parker Follett, *Constructive Conflict*, in *PROPHET OF MANAGEMENT: A CELEBRATION OF WRITINGS FROM THE 1920S* 67, 69 (Pauline Graham ed., 2003).

⁵ CARRIE MENKEL-MEADOW, LELA PORTER LOVE, ANDREA KUPFER SCHNEIDER & JEAN STERNLIGHT, *DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL* 99–100 (2d ed. 2011).

⁶ See Jonathan R. Cohen, *Adversaries? Partners? How About Counterparts? On Metaphors in the Practice and Teaching of Negotiation and Dispute Resolution*, 20 *CONFLICT RESOL. Q.* 433, 438 (2003); Howard Gadlin, Andrea Kupfer Schneider & Christopher Honeyman, *The Road to Hell is Paved with Metaphors*, in *THE NEGOTIATOR'S FIELDBOOK* 29, 31–32 (Andrea Kupfer Schneider & Christopher Honeyman eds., 2006).

⁷ For more on the plethora of labels coming from a variety of disciplines, see Schneider, *supra* note 2.

⁸ Jennifer Brown, *Empowering Students to Create and Claim Value through the Thomas-Kilmann Conflict Mode Instrument*, 28 *NEGOT. J.* 79 (2012).

II. THE THOMAS-KILMANN CONFLICT MODE INSTRUMENT: THE POWER OF LABELS

One of the most popular systems for labeling approaches to negotiation is the TKI. The TKI was developed by Kenneth W. Thomas and Ralph H. Kilmann in 1971 at the UCLA Graduate School of Management, where Thomas was an assistant professor and Kilmann was a doctoral student.⁹ Since its inception, the TKI has been administered to tens and perhaps hundreds of thousands of people. An exact number is impossible to calculate, because in the first 30 years of its existence, the TKI was available only in a pen-and-paper format. Many administrations of the TKI were, and continue to be, unlicensed and therefore undocumented. In 2002, however, the TKI became officially available online, and between 2002 and 2005 researchers were able to collect nearly 60,000 online assessments.¹⁰ These were used to create an updated norm group, screening for gender, race, full-time employment status, age (between 20 and 70 years), occupation, and organizational level. Thus, researchers have been able to validate the TKI using a norm group of 8,000 participants who roughly replicate the demographics of the U.S. workforce.¹¹

The TKI contains thirty pairs of statements that might describe the subject's approach to a generic and unspecified conflict with another person. From each pair of statements, respondents are instructed to choose the one that best describes them. For example, consider this pair:

A. I try to find a compromise solution.

B. I attempt to deal with all of his/her and my concerns.

Respondents would choose A or B, even if neither perfectly described their approach to conflict. The instrument assumes that a respondent should experience one of these statements as a more accurate self-description than the other. In theory, neither statement in the pair is meant to be more socially desirable than the other. Indeed, this was a driving motivation for the development of the TKI, as earlier tests for conflict management style

⁹ Ralph H. Kilmann, *Celebrating 40 Years with the TKI Assessment: A Summary of My Favorite Insights*, 2 (Apr. 2011), https://www.cpp.com/PDFs/Author_Insights_April_2011.pdf. See also Kenneth Thomas, *Conflict and Conflict Management*, in HANDBOOK OF INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGY 900-902 (Marvin D. Dunnette ed., 1976).

¹⁰ Nancy A. Schaubhut, *Technical Brief for the THOMAS-KILMANN CONFLICT MODE INSTRUMENT: Description of the Updated Normative Sample and Implications for Use*, 1 (2007), https://www.cpp.com/Pdfs/TKI_Technical_Brief.pdf.

¹¹ *Id.* at 1-2.

betrayed some social desirability bias, skewing results toward subjects' aspirations rather than their true characteristics.¹²

Thomas and Kilmann tinkered with the paired statements over several years to develop an instrument as free of social desirability bias as possible. As the paired statements force a choice between two equally desirable approaches, the instrument avoids steering respondents away from their true responses or suggesting better, "correct" responses. As Kilmann explains, "[s]ince a person could not choose any of the TKI's 30 A/B forced-choice items merely to look good—the pairs had been matched on social desirability—respondents now had to disclose candidly how they actually behaved in conflict situations."¹³ Whether the unbiased character of the TKI can survive a negotiation class emphasizing principled or problem solving negotiation remains a debatable proposition, however. Students who have already been exposed to "principled" or "problem solving" approaches to negotiation will likely see some desirability in statements that reflect collaborative negotiation styles.¹⁴

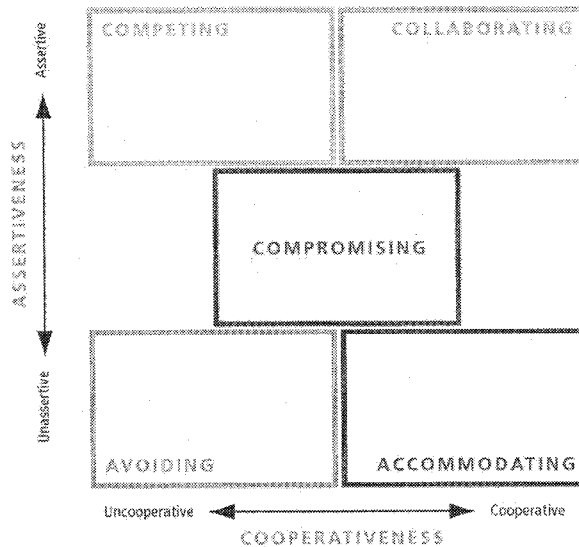
Once respondents complete the thirty-point questionnaire, a scoring instrument allows them to identify a high score for one of five categories: competing, accommodating, collaborating, compromising, or avoiding. These five approaches can be mapped on a graph with two axes: "assertiveness" (a concern for meeting one's own needs or desires) and "cooperativeness" (a concern for meeting the needs or desires of the other party to the conflict).¹⁵

¹² Thomas and Kilmann found that three conflict mode instruments developed in the 1960s were vulnerable to the critique that almost all of the variation in subjects' responses could be explained by the social desirability of the self-reported behavior. See Kilmann, *supra* note 9, at 16 ("On average, more than 90% of the variance in mode scores was explained by social desirability (88%, 92%, and 96% for the Blake and Mouton, Lawrence and Lorsch, and Hall instruments, respectively)"); see also Thomas & Kilmann, *Developing a Forced-Choice Measure of Conflict-Handling Behavior: The "Mode" Instrument*, 37 EDUC. & PSYCHOL. MEASUREMENT 309–25 (July 1977).

¹³ Kilmann, *supra* note 9, at 17.

¹⁴ The potentially biasing effect of the course context may have implications for the timing of this exercise, as discussed in III. TEACHING THE TKI.

¹⁵ MARGARET RATCHFORD, RATCHFORD ASSOCIATES, CONFLICT WORKSHOP FACILITATOR'S GUIDE FOR THE THOMAS-KILMANN CONFLICT MODE INSTRUMENT 21 (1996).



As this graph suggests, competing is strongly assertive and uncooperative, accommodating is unassertive and strongly cooperative, collaborating is strongly assertive and strongly cooperative, compromising is mildly assertive and mildly cooperative, and avoiding is neither assertive nor cooperative. When students see how their dominant conflict mode falls on this graph, they can be sensitized to ways they might instinctively resolve the tension between value claiming and value creation, assertion and empathy, or competition and cooperation. Thus, several teaching themes of a typical negotiation course come together and become personalized for the students.¹⁶

¹⁶ A plethora of personality tests have been devised to help people determine their negotiating styles. Most commonly, these instruments use a questionnaire format or ask respondents to rank preferred words. The key point of differentiation between the instruments is the nature of the categories used to sort respondents.

These quizzes range from the serious to the whimsical. For more academic-based quizzes see Reginald Adkins, *Conflicts Management Style Quiz* (2006), available at <http://www.ncsu.edu/grad/preparing-future-leaders/docs/conflict-management-styles-quiz.pdf>; and HERRMANN INTERNATIONAL, <http://www.hbdi.com/> (last visited Jan. 24, 2013). See also LEADERSHIP BREAKTHROUGH INC., <http://leadershipbreakthrough.com/assessments-we-use/hbdi-assessment/> (last visited Jan. 24, 2013). And then there are quizzes that use more amusing categories. For instance, if you want to figure out what type of bird your personality most resembles, you can take the D.O.P.E. Personality Test. *DOPE 4 Bird Personality Test: Dove, Owl, Peacock, Eagle*, SELF HELP FOR NORMAL FOLKS, <http://richardstep.com/self-tests-quizzes/dope-bird-personality-test-printable/> (last visited Jan. 24, 2013). In another rather unconventional instrument, the Edinburgh Business School's Negotiation Style Online Quiz determines your negotiating style by categorizing your answers from an astute "owl" all the way to a dense "donkey." *What is your negotiation style?*, EDINBURGH

III. TEACHING THE TKI

Both Brown and Schneider use the TKI as do many teachers of negotiation. At some point in the semester, students are sent home with the 30-question instrument, instructed to complete it away from class, and then enabled to score it (at home or at the beginning of the next class). Schneider has also left time in class to complete the questionnaire so that students cannot overthink or redo their answers with the luxury of time.¹⁷ A threshold issue to consider is the optimal timing for the TKI in a syllabus. There are pros and cons to various schedules. At the early stage of a negotiation course, the TKI can increase each student's personal stake in the subject of the course. Early administration also allows a teacher to introduce students to the TKI without undue priming from a negotiation literature that generally promotes collaborating. Finally, early application of the TKI creates a shared vocabulary to which students can refer over the course of the semester.

Notwithstanding these benefits to early administration, Brown and Schneider have moved the TKI to an approximate mid-point in the semester so that students can negotiate and learn negotiation theory without the prime of the TKI influencing their experience. Moreover, delaying the TKI allows students to contextualize their TKI results in the negotiation experiences they have accumulated in the course—for example, when a student learns that her dominant conflict mode is competing, that particular information may resonate more powerfully if she has already experienced three or four negotiations which were influenced by her competing impulses. The debrief is also more intellectually nuanced if the students have already learned a good amount of negotiation theory. Reasonable arguments support almost any ordering for the TKI in the syllabus, as long as students have at least a

BUSINESS SCHOOL, <http://www.ebsglobal.net/programmes/negotiation-quiz>. (last visited Jan. 24, 2013). Finally, negotiation teachers and trainers can consider using the Myers Briggs Type Indicator (MBTI), a personality test based upon Jungian theory. The Myers-Briggs Foundation runs a web site that provides complete information about the MBTI and ways to use it in teaching, training, and research. See Myers Briggs, www.myersbriggs.org/ (last visited Jan. 28, 2013). Law Professor Don Peters has explored the MBTI in some depth and has suggested ways it can enrich legal pedagogy in all fields, including Negotiation and Dispute Resolution. See generally Don Peters, "Forever Jung" *Psychological Type Theory, The Myers-Briggs Type Indicator and Learning Negotiation*, 42 DRAKE L. REV. 1 (1993); see also Ralph H. Kilmann & Kenneth W. Thomas, *Interpersonal Conflict-Handling Behavior as Reflections of Jungian Personality Dimensions*, 37 PSYCHOL. REP. 971 (1975).

¹⁷ This obviously also depends on the amount of class time that one has.

few remaining weeks in the course to synthesize the instrument with additional negotiation experiences.¹⁸

It can be helpful for students preparing to take the TKI to have a factual context in mind as they choose from the paired statements. Brown usually instructs her students along these lines:

Before you complete the TKI, please think about a relationship you have with another person in which you feel you are authentically your 'truest self.' This should be a relationship in which you do not assume an artificial *persona* specific to the relationship. For example, we all understand that response to conflict at work may be quite different from response to conflict within an intimate family relationship. Think of the relationship in which you are able to behave most reflexively. Complete the TKI with this relationship in mind, imagining conflicts that might arise in the course of this relationship.

This imagined context of reflexive and authentic response is important,¹⁹ because later, when students inevitably—and insightfully—note that they would complete the TKI differently if they were imagining conflict with a client or opposing counsel,²⁰ a teacher can both affirm that insight and remind students that their role-specific response may be a departure from what they identified as authentic, instinctive, or reflexive.²¹ Schneider's instructions for taking the TKI are to think of one particular context and be sure to have that context in mind while taking the whole test, resulting in the same insight—that the result will change depending on context—later in debrief.

Scoring the TKI is simple. Students circle their response for each question, with responses "A" and "B" distributed in various positions on a five-column matrix. Then they total the circled responses in each column to

¹⁸ RUSSELL KOROBKIN, *NEGOTIATION THEORY AND STRATEGY, TEACHER'S MANUAL AND SIMULATION MATERIALS* (2009) (placing the TKI in Chapter 8 of his Negotiation text, just beyond the half-way point in a fourteen-week semester, assuming the course covers one chapter per week).

¹⁹ This imagined context may also be perplexing for some; Brown has taught students who disclaim any sense that they have a core identity more authentic than any other they occasionally assume. For these students, identity is experienced as contingent and fluid.

²⁰ At the WIP conference, participants suggested that one could alter the prompts for these exercises to make different types of conflict salient, such as conflict involving resources or identity. One could also make gender, race, or other differences salient by including those contexts specifically in the questionnaire prompt.

²¹ The more contingent and fluid a student's sense of identity, the less likely that he or she will feel taxed in shifting conflict style from one context to another.

find the column in which they scored highest. This column represents their TKI "type," although they are not labeled by types right away, using roman numerals "I" through "V" instead. Kilmann suggests that one can label them C1, C2, C3, A1, and A2.²² To facilitate discussion of the results, students are divided into groups based on their high score. If students find that their scores are evenly distributed or that two or more columns tie for the high score, they approach the teacher and are assigned to one group or another. Kilmann "arbitrarily" assigns tied results "in order to balance the size of the five groups," but Brown has found this difficult to do, since "avoiders" are few in most law school classrooms. Schneider divides the groups evenly (with a directive to "go to a style but if 'x' number of people are already there, please move to another"), encouraging students to also feel free to move to their "lowest" score since they apparently have a good sense of the disadvantages of that style.

Some teachers of Negotiation instruct students to join groups based on their high scores in competing, avoiding, or accommodating, ignoring for the time being the scores they might have in collaborating or compromising.²³ If a class is large enough to distribute at least two or three students into each group, however, we prefer to form groups for all five types. When collaborating or compromising types mix into the other three groups, they sometimes muddy the results for those groups in ways that can be confusing to other members who have stronger impulses for the primary type. For example, a collaborating type pushed into a group of competing types because that is his second highest score may confusingly describe his approach to conflict as including substantial concern for the interests of the other person in conflict, and other members of the competing group may have difficulty assimilating this response. Moreover, allowing students who score high for collaborating or compromising to talk with others like them about their responses to conflict, and then share those thoughts with students from other types, not only helps to elucidate these two types, it may also demonstrate the difference between collaborating and compromising more powerfully than the professor can by filling them in later, as Korobkin suggests.²⁴

For small group discussion, we ask the students to consider four questions or topics:

1. Description: How would you describe your predominant response to conflict?

²² Kilmann, *supra* note 9, at 7–8.

²³ KOROBKIN, *supra* note 18, at 137–38.

²⁴ *Id.*

2. Assessment: What advantages and disadvantages have you experienced in responding this way?
3. Advice: What advice would you give to others in conflict with you, to help them handle the conflict most constructively?
4. Discretion: When is the best time to use this response? With what people? In what context?

This set of questions allows each group to uncover its own “type” somewhat organically, rather than having it identified for them.²⁵ Fortunately, students almost always self-describe in ways that are consistent with the TKI type for their score.²⁶ Ten to fifteen minutes is usually ample for the small group portion of the debriefing. For discussion in the larger group, each small group is asked to share with the larger group its answers to the four questions. As key phrases or concepts emerge from each group’s self-analysis and are captured on a flip chart or chalkboard, the class starts to see the contrasts between types.

Kilmann suggests an alternative way to debrief the TKI, “An Experiential Exercise To Dramatize The Five Modes.” He divides participants by types and then assigns them to undertake one of the “classic experiential exercises developed and/or inspired by Jay Hall: ‘Lost on the Moon,’ ‘Lost at Sea,’ ‘Desert Survival,’” in which group members imagine a disaster and then “rank-order fifteen items that survived the calamity in the order of each item’s importance for success—such as reaching the mother ship after crash landing on the moon.”²⁷ Group members are also assigned to discuss the rankings and underlying beliefs of group members, leading groups to resolve conflicts. Kilmann claims that these discussions often reveal the group characteristics better than self-description ever could.

²⁵ Schneider has eliminated the first, descriptive question in debrief, however, since she often assigns students to groups which may or may not reflect their highest score. She has found that answering the descriptive question can take too much time in comparison to the (in her view) richer questions that follow. Brown continues to assign the descriptive question; when contrasting styles emerge from each group’s own self-description rather than an interpretation provided by the test or the teacher, students see greater validity in the TKI.

²⁶ KOROBKIN, *supra* note 18, at 138. Teachers can also hand out the typology and descriptions of the approaches if they skip the first descriptive question.

²⁷ Jay Hall was in the Department of Strategy at the Naval War College, Newport, R.I., as well as the Crew Equipment Research Department of NASA. He has described the Moon exercise in “Decisions,” *Psychology Today*, November 1971, page 51. A version of the exercise can be found on line. See Activity, Survival Theme: Lost on the Moon, <http://neyture.info/teachered/space/moon.html>.

However a teacher initially elicits discussion about group characteristics, these verbal descriptions can lead smoothly to a more graphic representation presented above on the X/Y axis. As helpful as this graph may be, there are at least three potential problems. First, Brown and Schneider prefer to present each type as a gerund (e.g., “avoiding”) rather than a noun (e.g., avoiders) to emphasize that individuals need not be stuck as one type or another. These categories describe how people will tend to behave in certain situations, not who they *are*. The TKI describes a subject’s dominant or reflexive approach to conflict, but individuals can and do move in and out of these approaches with some regularity—our larger point in this essay.

In fact, Schneider regularly tells the story of her own first experience with the TKI in which she was labeled an “avoider” (even midway through the semester, few students would perceive her as such) and how her brother and future husband (both law school classmates) laughed for hours. As Schneider relates, the TKI was totally accurate at that time because she had been thinking of a particular family conflict that she had ducked by telling her brother that it was “his turn” to deal with it.²⁸ The point is that students should understand that the TKI is *not* a lifetime prescription but rather a reflection of the context and frame of mind they adopted on the day they completed the questionnaire.

A second concern with the X/Y axis is that it is too prescriptive, and may lead students to reduce the types to caricatures: competing is selfish, accommodating is wimpy, avoiding is just plain bad, and so on. The four-part, verbal analysis suggested by the debriefing questions above is important to present *before* students see the X/Y graph in order to make clear that each TKI type has strengths *and* weaknesses, advantages *and* disadvantages. The problem with the X/Y graph is that it purports to quantify value and does so in a static way. For example, “collaborating” moves negotiators outward along the Pareto frontier, finding ways to increase their own value at no cost to their counterparts. “Avoiding” places negotiators in the “0” position on the graph, increasing neither their own nor their counterparts’ value—at least with respect to the specific conflict they seek to avoid. From the X/Y graph, students might conclude that it is always better to collaborate than to avoid,²⁹

²⁸ One might consider whether Schneider’s law school experience would be as likely to happen if she’d been given Brown’s prime, to think about a relationship in which she feels authentically “herself.” The point may be that Schneider responded to the TKI with a relationship or incident in mind which did not reflect her most authentic or natural response to conflict.

²⁹ Korobkin may be read as supporting this view when he says, “With the Mnookin/TKI typology, I think there is an answer to the normative question as to which style is best, at least in general. Mnookin et al. argue that both assertiveness and empathy

but the debriefing analysis and discussion will likely suggest that this is not true. For example, avoiding may be appropriate when negotiators want to “pick their battles;” students scoring high in avoiding may have noted some advantage in “conserving their resources.” Correspondingly, students scoring high for collaborating may have conceded in their analysis that they sometimes make a big deal of matters that do not merit the time and energy they devote to them. This kind of discussion can provide a good antidote to an oversimplification of the X/Y array of TKI types.

A third problem with the TKI is that it focuses on only two particular tendencies in negotiation—assertiveness and empathy³⁰—and ignores a host of other behavioral impulses that are equally important in negotiation. Over the years, Schneider has added a “creativity” axis on the diagonal to discuss more concretely the difference between compromising (splitting the difference) and collaborating (bridging,³¹ for example). Of course, even these changes still miss other elements of negotiation, including ethics and social skills.³²

When debriefing the TKI, it is important to draw students’ attention to the categories in which they have their lowest scores. For example, students who score high in column 1, competing, will often feel that they are skilled negotiators, because they focus on “winning” and can point to good results. But a low score for these students in column 4, avoiding, might lead them to ask whether they sometimes find themselves unintentionally hurting people’s feelings or triggering hostile interactions. A low score for such students in column 5, accommodating, might lead them to ask whether they have difficulty building positive relationships with others or whether others view them as unreasonable. It is also useful to uncover the assumptions students make about categories in which they score low, asking whether they might overemphasize the perceived disadvantages of their low-score categories while ignoring the advantages they forego by eschewing those styles.

are useful traits for the negotiator. The ‘collaborating’ style reflects healthy amounts of both assertiveness and empathy, and thus seems desirable.” KOROBKIN, *supra* note 18, at 133.

³⁰ The labeling for these axes varies. The core concept is that the Y axis measures concern for self and the X axis measures concern for others. Various dichotomies can capture this, such as “competing/cooperating,” “assertion/empathy,” or “claiming value/conceding value.”

³¹ Bridging occurs when a new option is created that meets the interest of both parties. So instead of arguing between paying \$30 now or \$40 now, the parties might agree that the payment will be \$40 next month.

³² See Schneider, *supra* note 2, at 31–35 (noting the problems with the typical axis model of skills).

In other words, the debrief's goal should be to demonstrate the advantages and disadvantages inherent in each approach. This is also the point of the fourth debrief question, which asks each group to outline the best time to use the approach. This section of the debrief can be the richest part of the discussion, as students realize that their own defaults (at least for the contexts or relationships they were contemplating) are not the only way to deal with conflict. Furthermore, questions about "where" and "when" implicitly suggest that approaches to conflict shift based on context and the people involved—and that this is a good thing.³³ Even students who tend to compete regularly in class can talk about contexts in which they have avoided or accommodated. Through the debrief, students can recognize the approaches that they already have in their repertoire and when they might want to use them. Finally, this discussion keeps the students from overvaluing collaboration and assuming that professors only want them to use this approach. Regardless of student results and grouping, it is the debrief that is crucial for student learning.

In addition to discussing the "types" with some nuance, facilitators should also exercise caution when leading the "advice" portion of each group's discussion. Brown has observed over the years that the advice each group gives to other groups is colored by the tendencies of their own type. Students scoring high for "competing," for example, often advise other students about ways to "defend against our exploitation" or "get value from us," while students scoring high for collaborating plead with their classmates to place greater trust in their assertions that they sincerely care about the other side's result as well as their own. This portion of the discussion can deliver such reassurances, or signal a kind of warning to other members of the class. Other students should probably take each group's "advice" with a grain of salt. The advice may say more about each group's sense of itself than the most effective way to negotiate with them.³⁴

Nonetheless, the advice can be enlightening. Students scoring high in "avoiding" have advised that they will participate in the negotiation more readily if the underlying conflict is deemphasized. Fellow students who may have found such students difficult to engage with have a kind of "a-ha moment" when they see that their own framing of the conflict—placing it in the foreground or relegating to background—can powerfully affect the

³³ Schneider, *supra* note 2, at 36 (outlining that style should shift "[b]ased on [y]our [c]lient, [y]our [c]ounterpart, and the [c]ontext").

³⁴ Schneider has also eliminated this question from the small group work, given the concerns outlined above. Instead, this question is covered in the large group debrief and as part of a larger conversation discussing how the styles can interact with one another.

cooperation and participation of the other side. Brown has even heard from students who claim that this insight reaped significant rewards in the students' personal relationships.

Following the in-class debriefing, the remaining task for processing the TKI is some reflective writing. This reflective writing can help students increase their comfort with the vocabulary of negotiation theory and gain some facility with thinking of themselves and others in terms of the TKI conflict management types. This vocabulary can become a valuable interpretive tool over the course of the semester or training. Teachers who administer the TKI early in the semester can ask students to discuss an experience or relationship outside of class in terms of the five TKI conflict management types. Students who take the TKI near the midpoint of the semester will have a rich set of experiences in the course to which they can relate their TKI results.³⁵ Under these circumstances, they can be asked to write about an experience from the course in which their behavior reflected their dominant approach to conflict as diagnosed by the TKI.³⁶

When students analyze a concrete negotiating experience in ways that connect it to the TKI, they are better able to see TKI types at work in their own and other students' behavior throughout the remaining weeks of the course. As teachers read and comment on these responsive papers, they can encourage students to experiment with new approaches to conflict, sometimes suggesting specific role plays still to come in the course that might provide interesting opportunities for such experimentation.

IV. THE DYNAD

The Dynamic Negotiation Approach Diagnostic (or DYNAD,³⁷ attached in appendix A) is based on the TKI and bears some important similarities.

³⁵ General reflective questions could include: Did you agree with your grouping? What did you learn? How and/or when is "style" an issue in preparation for a negotiation and/or during a negotiation? How will you utilize this knowledge in future negotiations?

³⁶ Reflective questions about a specific experience or exercise could include: "Did your behavior work to your advantage or disadvantage? If your behavior was helpful, what made it so? Can or should you cultivate this behavior in other contexts as well? If your behavior did not work to your advantage, what might you have done differently to manage or respond to your dominant approach to conflict?"

³⁷ The DYNAD, originally called How Do I Respond to Conflict, was created by Steve Meilleur and colleagues at Praxis Management Solutions. With their permission, over the last ten years Schneider has modified, expanded, and edited the instrument, renaming it the DYNAD.

For example, the questions are framed in socially desirable ways (consistent with the TKI) as the DYNAD encourages students to think about alternative approaches in positive ways.³⁸ In some other respects, however, the DYNAD takes an approach quite different from the TKI. First, the questions directly ask about strategic or behavioral choices (e.g., “I make sure my goals do not get in the way of our relationship”), thus balancing assertiveness and empathy more directly. Second, each question that measures a particular approach only focuses on that approach rather than forcing a choice between two approaches, as the TKI does. The DYNAD includes four statements for each of the five approaches for a total of twenty questions.³⁹

In contrast to the TKI’s binary choice between two statements, the DYNAD asks participants to rate themselves on a 6-point rating scale ranging from “Not at All Characteristic” to “Very Characteristic.”⁴⁰ As with the TKI, the self-reported nature of the DYNAD may lack objectivity and could reflect biases of the course in which the instrument is administered. Students might respond to the DYNAD in ways that are less realistic and more aspirational, as they give answers they think would be most favored by the professor, the course materials, or their classmates. On the other hand, a debriefing that pulls out what is good and bad about each approach will moderate the impact of students’ attempts to find the “right” answer.

Finally, the most significant advancement that the DYNAD makes compared to the TKI questionnaire is that it asks students about their approaches to conflict at early *and later* stages of a conflict. Two statements for each approach begin with the phrase, “When I first discover that differences exist,” and two more statements are introduced with the phrase, “If differences persist and feelings of conflict escalate.” In the scoring and debrief materials, these phrases are later identified as the basis for the “Calm” score and the “Storm” score respectively.

A. Assigning the DYNAD

At the end of the class session preceding the day a teacher wants to discuss the DYNAD, the teacher distributes the paper copy or the link for the

³⁸ For example, one question that teases out the potential for avoiding is phrased, “I delay talking about an issue until I have had time to think it over.”

³⁹ Both because of the fewer questions and because the rating scale used in the DYNAD seems to be easier than the forced choice in the TKI, administering the DYNAD takes about half of the time of the TKI.

⁴⁰ We chose a 6 point scale so that there could not be a midpoint neutral—participants must declare a preference—and to give sufficient range on the likely to not likely scale.

online instrument.⁴¹ If the teacher plans to compare or contrast the DYNAD and the TKI, it is important to give the same or a similar prompt for the two instruments. Students should answer the two tests with the same relationship or conflict in mind. The online version of the DYNAD asks respondents to think about their general approach to conflict; this is quite different from the relationship-specific approach that we usually adopt for the TKI, and can produce a sort of “apples-and-oranges” result if a professor does not take precautions in the prompts. If students complete the DYNAD after the TKI using the same prompt, they more clearly can see the way sensitivity to the dynamics of conflict can change the picture of their negotiation style.

B. *Teaching the DYNAD*

After the scoring of the DYNAD is complete, students are divided into the five TKI approach-based groups described above. For the first part of the group exercise, participants are assigned to their groups based on their “calm” score (and, again, this can be based on their high score, their low score, or just dividing the group relatively equally). Participants answer the same questions that we pose in the TKI debriefing, focusing particularly on the advantages, disadvantages, and best situations in which to use this approach *at the beginning of a conflict*. When filling out their flipcharts of answers, participants are asked to use only one color marker. After the participants have enough time in “calm” groups, they are then asked to move to another group based on their “storm” score, with the rule that everyone must move even if their high scores are in the same category.⁴² Participants are then asked to answer the questions again, focusing on the particular advantages, disadvantages, and situations in which to use this approach *once the conflict has heated up*. Participants write their answers on the same flipchart in a different color so that debriefing the difference is clear. (To the extent an answer for calm would still apply, participants can mark that answer with a star or underline to signify that.)

After both rounds of questions have been completed, the group is then brought back together for a large group debrief. Much of this debrief is similar to the TKI debrief with several additions. First, the group can see the differences in advantages and disadvantages for each of the approaches reflected on the flip charts. This nurtures a more nuanced understanding of

⁴¹ Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243679.

⁴² The move forces all participants to analyze two of the approaches, thus adding to their perspective on how these approaches can be used. In a nonscientific analysis of a recent 40-person class, slightly more than half of Schneider’s students had different high scores for calm and storm.

each of the approaches and produces better advice about where, when, and how each approach can be used most effectively. Each “type” shares with the larger group the differences it found in terms of advantages and disadvantages depending on the stage of the conflict. Then each type explains how these respective advantages and disadvantages are reflected in its advice about when to use its characteristic style most effectively.

Advantages of a particular approach may not persist when negotiators move from “calm” to “storm.” For example, if a counterpart’s behavior has been extremely confrontational or abusive, maintaining an accommodating style may seriously disserve the negotiator’s interests. Correspondingly, the disadvantages of a particular style may also change. For example, the gamesmanship of a compromising approach may leave some gains of trade unrealized when adopted straight off the bat, but with an obnoxious or difficult negotiating partner, a procedural focus on fairness, typical of a compromising approach, may be the best one can achieve. Similarly, the advantages of avoiding a conflict at the beginning (saving time, finding someone else to handle it, hoping that the conflict may blow over, etc.) are unlikely to be the same set of advantages when the conflict heats up (letting the emotions subside, finding a better time, etc.). By highlighting the stage or emotional context of an interaction, the debrief makes it even clearer that there is no “one” or “best” approach and that each approach has its benefits and drawbacks.

Another added element of the DYNAD debrief is the discussion about how negotiators may have several default behaviors and “back-up” moves. The awareness that approaches can shift is a useful point to make in terms of adding sophistication to participants’ understanding of negotiation choices. The discussion can also help the class to detect, for example, that competing may shift to avoiding or that compromising is a favored shift from many approaches. This realization can facilitate deeper discussion, such as: What would make compromising a good backup (and why, for example, might we then *not* want to start with it)? Why would competing people choose to avoid if the dispute heats up and how is that different from someone who competes and then moves to compromise? Since participant fears often focus on dealing with a hard bargainer, this debrief can explore what makes those engaged in competing move to other approaches. Alternatively, the debrief can explore what would cause people who are avoiding to change their minds and choose to engage. These additional insights can better help answer the questions of how best to deal with each approach. Finally, both the TKI and DYNAD can be used in mediation classes to help train student mediators to recognize negotiation styles, see how these styles might clash or work well, and also see how styles can change during the course of the mediation.

For example, one student from Brown's Negotiation class at Yale, who was distressed to learn that her dominant approach was "avoiding" according to the TKI, felt more comfortable with her DYNAD result and ably analyzed the basis for her result:

My DYNAD results helped me to see that it is not enough to recognize that I avoid conflict. I must also understand when I avoid conflict as well. My DYNAD results suggest that I move from accommodation to collaboration as the intensity of conflict increases. These results better match my intuition than the TKI. Initially I find it useful to signal my desire to cooperate by building consensus and accommodating others. In doing so, I actively delay discussion of contentious issues. But as the negotiation continues I use this base of consensus and goodwill to confront increasingly difficult problems. I assert myself more strongly, and the information I have gathered in earlier stages helps me to create integrative solutions.

Finally, the discussion about shifting approaches can reinforce the lessons that negotiators must constantly update and adjust throughout the course of a negotiation, always sensitive to the influence and impact of the client, the context, and the counterpart.⁴³ Neither the TKI nor the DYNAD can render an authoritative diagnosis of a negotiator's style without reference to these conditions; A debrief that teases out these methodological assumptions can actually generate thoughtful discussion that still allows the instruments to yield significant pedagogical benefits.

Another student from the class at Yale, reflecting on the DYNAD, noted the importance of these contextual cues notwithstanding the DYNAD's sensitivity to changing negotiation dynamics:

For example, the test asks you to put yourself in a situation in which the conflict "has escalated." The test-taker then needs to think of his personal experience with conflict, which instantly removes the test from the arena of standardized questions and into the realm of deeply personal experience. In my case, for example, I have virtually always been on the receiving end of an escalated conflict—the escalating intensity comes from someone else, or at least that is how I perceive it. As a result, when I imagine a situation where "the conflict has escalated," that translates to "a situation where someone is yelling at me," and my reaction instantly becomes that of self-preservation, which the test interprets as avoidance.

⁴³ Schneider, *supra* note 2.

NEGOTIATION BAROMETRY

This student asked whether she would move to avoidance as readily in situations where her own behavior, rather than her counterpart's, caused the conflict to escalate.

V. CONCLUSION

Becoming more self-aware is one of the crucial lessons that we teach in negotiation. Understanding your “default” style—at least in the context about which you are thinking during a diagnostic test—is one step toward understanding how you react in negotiations. Recognizing that one's style should adjust over the course of the negotiation, and that one's style should depend on the context and the negotiation counterpart, are the next important steps toward becoming a more effective negotiator. A diagnostic tool that promotes the concept of shifting styles makes it easier for students to understand the importance of flexibility in negotiation approaches. It also makes it clearer that there is no “right” answer—rather that each style has its advantages and disadvantages. By measuring style choices at calm and storm, the DYNAD gives teachers and students a better negotiation barometer.

Dynamic Negotiating Approach Diagnostic (DYNAD)

INSTRUCTIONS: Consider your response in situations where your wishes differ from those of another person. Note that statements A-J deal with your *initial* response to disagreement; statements K-T deal with your response *after the disagreement has gotten stronger*. If you find it easier, you may choose one particular conflict setting and use it as background for all the questions. Note that there are no “right” or “wrong” answers; your first impression is usually best.

Circle one number on the line below each statement for questions A through T.

A. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I make sure that all views are out in the open and treated with equal consideration, even if there seems to be substantial disagreement.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

B. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I devote more attention to making sure others understand the logic and benefits of my position than I do to pleasing them.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

C. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I make my needs known, but I tone them down a bit and look for solutions somewhere in the middle.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

D. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I delay talking about the issue until I have had time to think it over.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

E. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I devote more attention to the feelings of others than to expressing my personal concerns.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

F. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I am more concerned with goals I believe to be important than with how others feel about the issue.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

G. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I often realize that trying to resolve the differences are not worth my effort.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

NEGOTIATION BAROMETRY

H. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I make sure my goals do not get in the way of our relationship.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

I. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I actively explain my ideas and just as actively take steps to understand others' ideas.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

J. WHEN I FIRST DISCOVER THAT DIFFERENCES EXIST,

I give up some points in exchange for others.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

K. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I set aside my own preferences and become more concerned with keeping the relationship comfortable.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

L. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I refocus discussions and hold out for ways to meet the needs of others as well as my own.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

M. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I let others handle the problem.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

N. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I try to be reasonable by not asking for my full preferences and I make sure I get some of what I want.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

O. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I put forth greater effort to make sure that the truth as I see it is recognized, and less on pleasing others.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

P. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I interact less with others and look for ways to find a safe distance.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

Q. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,

I press for moderation and compromise so we can make a decision and move on.

Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

- R. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,
I do what needs to be done to resolve the conflict in my favor and hope we
can mend feelings later.
Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic
- S. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,
I do what is necessary to soothe the other’s feelings.
Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic
- T. IF DIFFERENCES PERSIST AND FEELINGS OF CONFLICT ESCALATE,
I pay close attention to the wishes of others but remain firm that they need
to pay equal attention to my wishes.
Not at all Characteristic <—1—2—3—4—5—6—> Very Characteristic

SCORING THE INSTRUMENT:

When you are finished, transfer the number from each item on the tally sheet. For example, on item A, if you selected number 6, write “6” on the line designated for item A on the tally sheet. Then add the numbers.

SAMPLE: B 1+ H 4= 5.

INTERPRETATION OF THE INSTRUMENT:

- 1. This instrument gives you two sets of scores. Calm scores apply to your response to conflict when disagreement first arises. Storm scores apply to your response if things are not easily resolved and emotions and feelings of conflict get stronger.
- 2. The scores indicate your preference, or inclination to use each style. The higher your score in a given style, the more likely you are to use this style in responding to conflict. You can develop skills in the appropriate use of each conflict management style and, as such, are not limited to using the style(s) that you prefer.

**CONFLICT MANAGEMENT STYLE PREFERENCES -
Tally Sheet**

COMPETING STYLE B _ + F ____ = _ Calm O _ + R ____ = _ Storm		COLLABORATING STYLE A _ + I ____ = ____ Calm L _ + T ____ = ____ Storm
	COMPROMISING STYLE C _ + J ____ = ____ Calm N _ + Q ____ = ____ Storm	
AVOIDING STYLE D _ + G ____ = ____ Calm M _ + P ____ = ____ Storm		ACCOMMODATING STYLE E _ + H ____ = ____ Calm K + S = _ Storm

LEGEND: Arrows read low to high:

Vertical Arrow: ASSERTIVENESS: Getting your own needs met

Horizontal Arrow: EMPATHY: Maintaining the relationship between yourself and the other party

----- >The relative amount of effort and creativity needed to use conflict management style

<p>COMPETING STYLE High Assertiveness/Low Empathy "We're doing it my way ..."</p> <ul style="list-style-type: none"> • Strategies: Make a strong case for your position, persuade, be firm, assertiveness, insist, take charge or control the discussion. • Source of Power: From stating your position • Advantages: Speed, decisiveness, preservation of important values, stability. • Disadvantages: Destroyed or hierarchical relationships, loss of cooperation, diminished self-respect in others, and lack of input or feedback. 	<p>COLLABORATING STYLE High Assertiveness/High Empathy "My preference is ... I'm also interested in your views."</p> <ul style="list-style-type: none"> • Strategies: Problem focused, assert your position while also inviting other views, welcome discussion of all viewpoints, creativity. • Source of Power: From integrating solutions. • Advantages: Builds trust in relationships, high cooperation, merges perspectives, high energy. • Disadvantages: Fatigue, loss of motivation, time consuming, distraction from other more important tasks, analysis paralysis.
<p>COMPROMISING STYLE Medium Assertiveness/Medium Empathy "Let's find some middle ground ..."</p> <ul style="list-style-type: none"> • Strategies: Urge moderation, trade-offs, split the difference, find a little something for everyone, find middle ground. • Source of Power: From moderation and reasonableness. • Advantages: Relatively fast, enables the show to go on, provides a way out of stalemate, readily understood by most people, builds atmosphere of calmness and reason. • Disadvantages: Mediocrity and blandness, possibly unprincipled agreements, likelihood of patching symptoms and ignoring causes. 	
<p>AVOIDING STYLE Low Assertiveness/Low Empathy "Let's not make a big deal out of this ..."</p> <ul style="list-style-type: none"> • Strategies: Withdraw, delay or avoid response, divert attention, suppress personal emotions, be inscrutable, conflict adverse. • Source of Power: From calmness, silence, non-cooperation. • Advantages: Freedom from entanglement in trivial issues or insignificant relationships, stability, preservation of status quo, ability to influence others without engaging. • Disadvantages: Periodic explosions of pent-up anger, freeze-out – unable to build relationships, residue of negative feelings, stagnation and dullness, loss of accountability or participation. 	<p>ACCOMMODATING STYLE Low Assertiveness/Low Empathy "OK, whatever you say ..."</p> <ul style="list-style-type: none"> • Strategies: Agree, support, forego your perspective, placate, reasonable, creating goodwill. • Source of Power: From relationships or approval of others • Advantages: Maintains approval/appreciation of others, freedom from hassle and conflict (at least in the short-run), self-discipline of ego. • Disadvantages: Don't get what you want, frustration for others who wish to collaborate, loss of respect, over-dependence on others, denies others benefit of healthy confrontation.